

Patents

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Emanuele et al.

Application No. 09/457,771

Filed: December 9, 1999

For: THERAPEUTIC DELIVERY  
COMPOSITIONS AND METHODS  
OF USE THEREOF

Art Unit: 1635

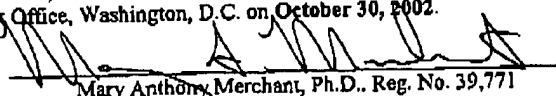
Examiner: R. Schnizer

TERMINAL DISCLAIMER IN APPLICATION

The owner, CytRx Corporation, of the entire interest in the above-identified present application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 5,811,088, (the prior patent). The owner hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that said patent and the prior patent are commonly owned. This agreement runs with any patent granted on the present application and is binding upon the grantee of such patent, and its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that the prior patent later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of

I hereby certify that this correspondence is being transmitted via facsimile to Richard Schnizer, Ph.D., to facsimile number 703-746-5338 at the U.S. Patent and Trademark Office, Washington, D.C. on October 30, 2002.

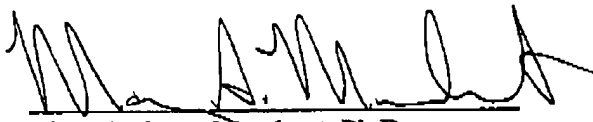
  
Mary Anthony Merchant, Ph.D., Reg. No. 39,771

competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Please charge the fee required by 37 CFR § 1.20(d) to Deposit Account No. 11-0855.

The undersigned is an attorney of record and is authorized to sign on behalf of the owner.

Date: October 30, 2002



Mary Anthony Merchant, Ph.D.  
Reg. No. 39,771

Our Docket: 19720-0624 (42896-216422)

94950